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International Court of Justice

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OFFICIAL TRANSCRIPT OF TESTIMONY FOR THE DEFENSE OF ORGANIZATIONS, TAKEN BEFORE A COMMISSION APPOINTED BY THE INTERNATIONAL MILITARY TRIBUNAL PURSUANT TO PARAGRAPH 4 OF THE ORDER OF THE TRIBUNAL DATED 13 MARCH 1946.

28 June, 1946.

COMMISSIONER:

Captain Joseph Tubridy.

THE GESTAPO.

(THE COMMISSION CONVENED AT 1000 HOURS.)

HANS TESMER, a witness, took the stand and testified as follows:

BY THE COMMISSIONER:

Will the witness stand, raise his right hand and repeat after me:

I swear by God, the Almighty and Omniscient, that I will speak the pure truth and will withhold and add nothing.

(The witness repeated the oath.)

Q What is your name?

A Hans Tesmer

Q You may sit down.

CAPTAIN TUBRIDY: Dr. Merkel, will you please state what you want to prove by this witness?

H1000 - 0003



DR. MERKEL: The witness will be questioned concerning the Gestapo. The activities of the various groups , principles governing appointment and release of Gestapo officials. The witness will be questioned by Dr. Orth.

CAPTAIN TUBRIDY: In this line of questioning, will the testimony bring out a point which will have a bearing on the charges named in the indictment?

DR. MERKEL: Yes, definitely. I wish to prove whether or not the majority of the members of the Gestapo were volunteers or not. I also want to show whether or not the large masses of the Gestapo officers were recruited in what is now claimed to be criminal actions. The prosecution has already taken care of part of this, due to the fact that in the meeting of February 20th they withdrew part of the Gestapo from the indictment. I want to prove now that it was organizations and groups that already have been excluded were not to be held responsible for this so-called criminal action. This group, the complete administrative group, did not have anything to do with what is now termed by the prosecution as criminal action. These questions will be asked of this witness in that direction.

BY DR. ORTH:

Q Witness, when did you come to the Gestapo and what were your duties there?

A On March 15, 1934 I came to the Gestapo, however, even before 1933, I was an active state's attorney in Berlin.

Q What were your duties in the Gestapo?

A I was first concerned with law matters and later on with admin-

H1000-0004

istrative matters. From March, 1936 until I left the Gestapo in June of 1940 I had the position of personal referendary.

Q With the Gestapo in what Amt. were you personal referendary?

A Before all the police in Germany were put into one organization, I was first with the chief of the Gestapo in the Prussian district. Later on I was with the main office of the Security Police, that is after the entire German police were put under the jurisdiction of theBerlin main office.

Q What were your duties as personal referendary?

A In my position with the ministry, I had to take care of the hiring and the advancement of all personnel of the Gestapo. In this connection, I also had to take care of the disciplinary action and had to see that it was carried out.

Q In other words, you can give us information concerning the personnel organization of the entire Gestapo until 1940?

A Yes.

Q What was the composition of the members of the Gestapo, the groups?

A The members of the Gestapo were composed of civil servants and non-civil servants, just aides.

Q Did all these civil servants have the same duties?

A No in the civil servants in the Gestapo one has to make an essential difference. These servants were divided into two groups (1) the so-called administrative group and (2) the so-called group that carried out the actions and the group that did the field work. They had the same thing in the police too. You had first the administrative employees, then the employees

H1000 - 0005

that did the field work, that is the criminal ~~work~~ police.

Q What were the duties of the so-called Vollzugsbeamte?

A They were doing the outside field work, the arresting, the searching, securing the confessions, etc.

Q What were the duties of the administrative employees?

A It was their duty, their administrative duty, to take care of such matters as pay, clothing, food, etc.

Q Was there any essential difference between the administrative and executive members of the Gestapo?

A Yes, there was a difference by law.

Q What kind of a law?

A The essential difference, as in other organizations, was that the administrative employees were under the laws of the Reichs Civil Service law, while the executive employees were under the law of the police.

Q Was there also a difference in their duties and designations?

A Yes, there was a difference in their designations as well as in their careers.

Q Did it ever happen that an administrative employee of the Gestapo was used in an executive branch?

A Principally no.

Q Were there any exceptions?

A Yes, it did happen during special security measures. I remember the Olympics in Berlin in 1936 during which administrative employees of the Gestapo were used in these security measures that is during the Olympics, however, no administrative employees were ever allowed to do any executive

H1000-0006

~~employee was ever allowed to do any executive~~ work, such as I described before, such as interrogations or getting information.

Q From what group were the civil servant men taken at the time the Gestapo was formed and developed.?

A They had to make a difference between the executive and administrative employees. The members of the executive group were taken over when the Gestapo was formed at the beginning of 1933 especially from the political departments of the police. The administrative employees were taken over from the administrative groups of the Police Department. Since there were not enough police administrative officers in the police at the time to be sufficient for the Gestapo, men were also taken from local administration for this Gestapo administration work.

Q Were members of the party or other organizations, especially the SS, hired by the Gestapo.

A There was no special hiring of members of the party from organizations such as the SS since from the beginning it was realized that the new organization, the Gestapo, had to be put on a permanent basis and the basis for the entire Gestapo was the police officers taken over from the former police officers of the political police department. These men taken over from the Police Department, these former political policemen, were principally not members of the NSDAP or the SS since they had been taken over from the political department, which had functioned before 1933 and many of these men had voted against the Nazi party.

5

H1000 - 0007

Q On what principle was the Gestapo enlarged or reinforced?

A The new men taken in the Gestapo were hired, according to the civil service laws and especially on their qualifications. By qualifications, I mean the men had to have the expert knowledge that was necessary, also their characteri~~zation~~tics and personal actions were considered important in this case. It was not necessary at all that this person be a member of the party or the SS. I have already said that the men who were policemen before 1933 were not party members either.

Q Out of what circle did your reinforcements for the Gestapo come?

A The placement of men for the Gestapo, especially for the executive group, came especially in the beginning from other police officers and groups mainly the criminal police. Secondly, also persons who were civil servant applicants were hired for the executive positions. In the latter case, I am speaking of the young men who wanted to take over the occupation of an executive policemen. Among these applicants again there was a large part that were not members of the party or the SS. I want to especially point out that among these applicants for the executive positions in the Gestapo, there was not a large number of party members for the jobs in state railroads and state judicial organizations.

Q Did these civil service officers come to the Gestapo because they had volunteered for it?

A These civil servants as a rule did not come to the Gestapo due to the fact that they volunteered. No, they were sent on temporary duty to the Gestapo and this temporary duty later on was changed into an official transfer.

H1000 - 0008

Q Who was commanded into the Gestapo and from where?

A As I stated already the executive branch of the Gestapo needed qualified criminal officers and they came from the criminal police and the administrative part of the Gestapo was continually needing expert and qualified personnel and these came fromthe administrative groups of the police and local administrations. During the first years, there was some difficulties since the Criminal police did not want to send their best men away.

Q Was there a possibility for a civil servant to protest against his being transferred to the Gestapo?

A For the individual employee, there was no possibility of protesting against this transfer. According to the German Civil Service law, every civil servant was supposed to follow any orders concerning commandeering or concerning transfers, however, he did have the possibility of expressing his wishes which did not have to be carried out in the interest of the job, since it was always the desire when the Gestapo was founded and later on to build up the personnel staff. These wishes of the civil servant employees were not respected or regarded.

Q What would have happened if a civil servant employee had refused to be transferred or refused to be sent on temporary duty to the Gestapo?

A The employee who would have refused to follow the order of being commanded or transferred would have brought about disciplinary action against him.

H1000 – 0009



Q What you just said now concerning the volunteers into the Gestapo was not true when the Gestapo was founded as well as later on when additional men came in?

A Yes, the statements I made concerning the voluntary character of the Gestapo was true at the beginning when the Gestapo was organized and later on when they received their replacements.

Q During the time you were there, were any employees released from the service and why?

A I would like to find out what you mean by released. Do you mean released from their civil servant status or just released by the Gestapo and sent back to their organization?

Q I am interested in both.

A The only time any releases were made from the Gestapo at the time I was there was due to disciplinary action. Insofar as transferring back to their old organizations was concerned, I stated already that was turned down as a rule. Only in very limited cases, men that were not usable were sent back to their old organizations.

Q Was it possible that an employee left the Gestapo of his own free will?

A The members of the Gestapo had the same possibility as the civil servant employees in every other branch of the local state administration service, that is the right to leave voluntarily the field of service, however, when the civil servant did retire or did leave the civil service, he had to

H1000 - 0010



leave behind all the advantages that were otherwise open to him. I don't know of any such cases. That was the position until the beginning of the war and then it was not possible any more to leave the employment of the civil service according to the law.

Q What were the duties of the employees of the Gestapo?

A The employees of the Gestapo were required to do secondary or aid work. They were used in the administration of the Gestapo as technicians, teletypists, etc.

Q Were any such employees used in the executive service?

A These employees were not used in the executive service. They could not carry out any independant executive measures. They did not have the characteristics or duties that were open to the employees of the state attorney's office and insofar as they were used in the executive group, they could only do more or less aid or clerical work.

Q What were the basic principles, on which these employees were hired?

A The so-called tarriff grouping was used in the employment of these men.

Q Did members of the party, especially the members of the SS, receive any special advantages when applying for these positions.

A When these employees were hired by the Civil service a large number of party members ~~xxx~~ requested these jobs. In hiring these employees when the same qualifications were at hand of German men, then the men that were in the party or the SS did receive the position and they received the advantage, however, it was found out later on, especially that the old party members were not satisfied with their positions since they saw better

H1000 - 0011

chances of advancement in outside industry and they attempted to leave the Gestapo again.

Q Can you give us the relationship between the number of civil service employees and the number of employees of the Gestapo.

A Yes, I can give you these figures. In the beginning, there were about 70% civil service employees and 30% other employees. As time went by the number of civil service employees became smaller and the percentage of other employees was increased. When war came the rate was fifty to fifty.

Q Can you give us any statement concerning the number of people in the Gestapo?

A Yes, I am in a position to make this statement. I want to say between 1933 and March, 1936 I did not have anything to do with the personnel work in the Gestapo, however, I was informed concerning this by the person who had my job before I did. I can give you the number of these civil service employees according to the budget, which we were allowed every year and from which I can figure out how many men we had. I started out with 1933 and according to the statement of the Gestapo main office there were about 40 administrative officers, 200 executive officers and 70 employees.

Q I think we can skip the next years. I would like to know what the figure was in the last year?

A In the year 1940 the Gestapo had 20,000 employees, of which 1,700 were administrative personnel, 11,000 executive personnel and 8,000 employees.

Q Among these 8,000 were the so-called labor personnel required to work?

A No, there was no such labor recruits among these 8,000 people. When we

H1000 - 0012

did get these labor recruits, they were not hired as labor employees, but later they received their appointment indirectly from us, which we received from the Reichs Finance Minister.

Q Was it possible that these employees could leave the Gestapo voluntarily?

A Yes, these employees did have the possibility to voluntarily leave the Gestapo. These employees of the Gestapo, as well as were the employees of all state and government offices were considered to be privately hired personnel. They had a certain period in which to inform their employer that they were leaving and they could leave the service in that way.

Q Was that also true during the war?

A No, I don't believe that the employees could leave during the war since all the employees of Government and State bureaus were considered as essential.

CAPTAIN TUBRIDY: Please instruct the witness not to testify as to what he believes, only what he knows.

BY DR. ORTH:

Q Do you know if the employees could leave the Gestapo voluntarily during the war?

A Yes, I stated before the war they could do it without any trouble, however, after the war started they could not do it any more since at that time they were considered essential and at that time it was also necessary to receive the approval of the employment office for leaving the job and the employment office did not give such permission anymore.

CAPTAIN TUBRIDY: What the witness said now ~~is not~~ doesn't appear to be consistant with

H1000 - 0013



what he said before. ~~He said what he believed and now he testified as to matters within his knowledge. Let's get on with the questioning.~~

BY DR. ORTH:

Q The prosecution accuses the Gestapo of being a criminal organization. Do you know of a single case that an employee asked to be released from the Gestapo since he did not agree with these so-called criminal actions?

A No, I do not know of a single case during my years that I was employed of a man who wanted to leave the Gestapo because of its criminal goals and actions.

Q You also were in charge of hiring new members. Do you know or can you tell us when these men were hired whether they were asked if they were capable of carrying out any such criminal actions as the Gestapo is accused of?

A No, such an examination could not have occured since we took as a basis for these examinations the law and the official nature of the Gestapo. The Gestapo was created through regular law during the years 1933, 1934 and 1936. Its goals and duties were also put down in the law. My main job as personal referendary was to hire decent and clean employees.

Q Did you also have as personal referendary the supervision of the duties of these employees?

A I had the supervision of these employees insofar as the personal work was concerned. The supervision in the various special branches were carried out by the section chiefs.

Q Were the disciplinary matters also taken care of in your section.

H1000 – 0014

A Yes, the disciplinary matters were taken care of at the beginning in my section. Later on this work was put into a special independant committee's hands, however, the chief of the disciplinary section was required to discuss the cases with me. I had the power of decision in this matter.

Q In other words you can give me information as to what the disciplince measures were for any over-stepping of the law by the executive officers?

A Yes, I can give you the information. Whenever an executive officer acted against the disciplinary or other laws, then we immediately stepped into the case energetically.

CAPTAIN TUBRIDY: What is the point of this questioning?

DR. ORTH: The witness worked on these disciplinary matters.

CAPTAIN TUBRIDY: What is the point ~~of indicating that disciplinary action was taken against the Gestapo members when you have not indicated what they violated.~~ Do you mean disciplinary action of the office or disciplinary action concerning something that happened in the field?

DR. ORTH: Against the executive officers. That is those that took care of the arrests, etc.

CAPTAIN TUBRIDY: Very well.

BY DR. ORTH:

Q Can you give me a few examples in which executive personnel was disciplined or punished for any kind of criminal actions they carried out?

A Yes, I can give a few of these examples. For instance in 1937 two members of the Criminal Section, the criminal secretary Gunnerman and

H1000-0015

one of his chief assistantes.

Q We are not interested in names.

A These two men were sentenced in Dusseldorf because of the mistreatment of the prisoners. They spent one and one half years in the penitentiary.

Q That is sufficient. Were these cases as they became known at official headquarters always investigated and punished?

A Cases like this yes if they became known to official circles were always investigated and the people punished.

Q Did you as personal referenday also work on the connection of the Gestapo with the SS, that is the SD?

A At the end of 1936 or in the beginning of 1937, I received a call to get ready for some changes within the Gestapo to make it smaller than the SD.

Q From whom did you receive this order?

A I received this order from my main section chief Hauptabteilungsleiter of the Gestapo, at that time Heydrich.

Q What was the reason for this equalization of rank?

A The main reason for this was the attempt to make uniform the entire security police.

Q Did this equalization of rank designations mean the Gestapo became a part of the SS?

A The equalization of rank designations only meant a formal induction of the members of the Gestapo into the SS. To what extent this formal induction was is best shown by the fact that with this new incorporation in the SS there was no necessity of SS service. The only basic matter was that from now on the members of the Gestapo were allowed to wear the uniform of the SS.

H1000-0016



Q Could an employee, who received the rank in the SS through this rank equalization, could he refuse such rank?

A There was supposed to be no immediate pressure concerning this transfer into the SS, however, it was stated in the higher circles that the larger part of the Gestapo members themselves requested the transfer into the SS.

Q While you were still working were there any labor recruits sent to the Gestapo?

A Yes, such labor recruits were already used during my time.

Q How did they come about.

A The Gestapo received such labor recruits due to the fact that at the beginning of the war many officers of the Gestapo were transferred out into new organizations and sections. In order to fill these places, not only labor recruits were used, but also already retired civil servant employees.

Q On what kind of directives were these labor recruits hired?

A These emergency labor recruits were put into the Gestapo due to the fact that it was an absolute necessity. This was an emergency measure and it included all possible occupations.

Q Was it checked when these people were hired whether they were a member of the party or one of its organizations?

A We did not look at all upon whether they belonged to the party or any organizations when these political recruits were received.

Q Could someone protest against being put into the Gestapo, that is one of the labor recruits?

H1000 -0017



A One of these labor recruits could not protest with any appreciable results against their transfer of work to the Gestapo. He could protest against this if he had been called by the Post Office Department or by the state railroad.

CAPTAIN TUBRIDY: We will have a recess for ten minutes.

(THE COMMISSION RECESSED AT 1130 HOURS.)

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H1000 - 0018

Q Did these labor recruits come to the Gestapo voluntarily or because they had been ordered?

A These labor recruits did not come to the Gestapo because they volunteered, but because of laws or directives.

Q When and why did you leave the Gestapo employ as a personnel expert?

A I left the Security Police at the end of June, 1940, due to the fact that I had volunteered for the Army.

Q Could you leave the Security Police voluntarily?

A No, officially I could not leave the Security Police because at that time already the order had been handed out that it was forbidden to volunteer for the Army. I went to my section chief and asked him to release me for the Army. I received permission from him.

Q What was the reason for this? Were there any differences or special difficulties and why did you leave?

A I had certain difficulties in my personnel work. In the beginning of the first half of 1940, I was surprised by the chief of the personnel division of the Security Police when he told me that there was a new position open within the Security Police, and that was a position as one of the chief administrative officials. At any rate, it was an executive position. In this development of a new position, I saw difficulties which I could not master during the war. In addition to that, men who did not belong to the personnel commission were given the job to prepare this new position. With that, it was important for me to influence this new position and to give it some of my own ideas. All together, I want to state that as the chief of the personnel section, I still was in charge of all personnel. However, through the development of this new position, I did not have the power any more to influence this particular group of persons.

H1000 - 0019

Q I have one last question. In the German transcript, page 5193, it states that, and I quote: ". . .I, of the United States, and I believe all my fellow colleagues, are ready to exempt all purely office jobs of the Gestapo. Among that, I mean the typists, the house administrators, the janitors, and so on."

Could you make a statement as to whether any of the groups that you mentioned to me would have the background of being just office workers as is mentioned in this description, such as typists and janitors?

A Among this group belonged, in my opinion, all non-civil service assistant employees. Under these non-civil service employees and assistants I understand all employees that did not have a civil service job. That is, including these labor recruits.

DR. ORTH: No further questions.

CROSS-EXAMINATION

BY LT. CMDR. HARRIS:

Q Do you know Dr. Best?

A Yes, I do know Dr. Best.

Q What position did Dr. Best have in the Gestapo when you joined the Gestapo in 1934?

A When I came to the Gestapo in the middle of March, 1934, Dr. Best was not there yet. If I remember correctly, Dr. Best only came in the end of 1934.

Q What position did Dr. Best have thereafter in the Gestapo with respect to you?

A Dr. Best was my Hauptabteilungsleiter. He was my main section chief in the office of the Security Administration and Law.

Q And I suppose you derived much of your knowledge of the legal status of the Gestapo and its relation to the SS from Dr. Best?

H1000 - 0020

A I did not receive much information from him, but all of this information was related to me through the official law.

Q I would like to call to your attention what your chief, Dr. Best, had to say in his book, "Die Deutsche Polizei", concerning the earlier relationship of theGestapo and the SS. This is from chapter 7 of his book, the chapter entitled "Police and SS".

"After the National Socialist regime, during which time the SS took a large part in carrying out the measures necessary for the seizing of power by the NSDAP, the SS, at least indirectly, became responsible for new duties. On 2 April 1933, the Reichsfuehrer SS was appointed political police commander for Bavaria. Corresponding appointments were made in the following months in all the remaining German provinces. On 20 April 1934 I was appointed Deputy Chief of the Secret State Police, proceeded by the Prussian Minister President Goering who further designated himself chief of the Secret State Police.

"In order to build up an independent and powerful political police force, the like of which had not hitherto existed in Germany, regular officials of the former police force on the one hand and members of the SS on the other hand were brought in with the uncompromising fighting spirit of the SS.

"The new organizations took up the struggle against enemies of the people, and the state, for the safe-guarding of the National Socialist Leadership and order. The members of the political police who were, for the time being, still the political police of the individual German provinces, were included into the SS in increasing numbers so that in time, for the first time, mutual amalgamations of the SS and police was accomplished".

Do you agree with this statement of your chief, Dr. Best?

A I did not know of this book of Dr. Best. I only heard that he had published such a book. The description of the police is correct, in that extent where he

H1000 - 0021

expresses the connection between the Reichsfuehrer SS and the police. The Reichsfuehrer SS, at that time, was made deputy commander of the Gestapo, of the Secret State Police in Prussia, and also was made chief of the political police in other provinces of the Reich.

Q Just a minute. I don't want you to repeat this history of which we have a great deal of evidence in the record. My question is simply whether you agree basically with what your chief, Dr. Best, says in this chapter?

A I don't agree with Dr. Best. Where he stated that the Gestapo, and later on also the Security Police became a part, or was to become a part, of the SS, I think he should have pointed out especially, in this book, that the Gestapo and later on the Security Police needed experts and that as time went by, they used more and more such qualified men. During my four and a half years as personnel expert in the Gestapo, I always attempted, with the approval of Dr. Best, to further these groups of men -- these experts -- within the Gestapo, and to make sure that such a group of qualified men be maintained. However, I did have some difficulties since they were set, themselves, against the professional civil service employee.

Q I think you have answered the question. Now I want to call to your attention another statement of Dr. Best. In this chapter, where he is considering the relationship between the SS and Police, and perhaps this will serve to clarify the previous statement, he says:

"Thus the SS and the Police formed one unit, both in their structure and in their activity, although their individual organizations have not lost their true individuality and their position in the larger party and state administration, with which they are concerned from other points of view."

That's correct, isn't it?

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H1000 - 0022

A Yes, as I have already explained before, the main reason for equalization of rank dissemination was in order to create a uniform security police. However, when this new rank declaration was established, this was not in anyway connected with active SS service, and therefore, the entire transfer to the SS was only a formal one.

Q And wasn't the aim of this law to fuse members of the German police and of the SS into a uniform state protective corps of the Reich?

A This question is very hard for me to answer. As far as I personally am concerned, my opinion was that the reason was not so much to have a uniform security service, but one of the main reasons in my opinion was that the Gestapo officials were able to wear the SS uniform.

Q Now, I thought you were testifying as to what this directive or decree provided, or am I mistaken? Was there a decree?

A There was a decree, yes.

Q Have you been describing what this decree provided?

A Yes.

Q Under this decree, was a member of the security police required to file a written application to join the SD or SS?

A Yes, it was the wish of the leadership of the Security Police that as large as possible a number of the Security Police officials should make such a request. The carrying out of this decree was considered to take a long time -- that is, several years. The applications from the Security Police were tested or examined concerning whether or not they met the SS requirements. Included in this investigation, as to whether or not a person was acceptable to the SS, was the SS physical examination and the SS racial examination.

Q In other words, you did not get into the SS except by making an application and meeting their requirements, did you?

H1000 - 0023

A I have already mentioned that it was the wish of the main office of the Security service that as large a number as possible came to the SS or joined the SS. They acted accordingly. That is, for instance, the members of my office were one day ordered to appear for the medical and racial examination.

Q You didn't answer the question, did you? You couldn't get into the SS unless you made a formal request and succeeded in meeting their requirements?

A Yes.

Q Now, as I understand, from your testimony, the same thing is true with respect to the Gestapo. You couldn't get into the Gestapo unless you established that you were qualified to meet the requirements of the Gestapo?

A Yes, and I say that when this Gestapo was ended through the SS, then you had to meet the SS requirements too. There were cases in which these requirements were not met by certain persons. For instance, when a person was of old age or especially weak, physically.

Q And with respect to the Gestapo, particularly if he did not have the physical requirements?

A Yes.

Q Now, just to refresh your recollection, I want to call your attention to this decree that, I believe, you have been testifying to. This is the decree on the acceptance of members of the Security Police into the SS, dated 23 June 1938. The decree states, and I quote:

"With the aim of using members of the German Police with the Schutzstaffel of the National Socialist German Workers Party into one uniformly turned out State Protective Corps of the National Socialist Rise, I decree as follows:"

Then follows the various conditions under which members of the Security Police will be accepted into the SS. Do you recall that provision of the decree at this time?

H1000 - 0024

A Yes, I can remember. I also, at that time, thought that the view of the SS and the Police was that the Security Police was also to wear the uniform of the SS.

Q Now, I want to invite your attention to another provision of that decree, under Section III.

"Members of the Security Police incorporated into the SS will be assigned to the units of the Security Service of the Reichsfuehrer SS, according to more detailed instructions of the Chief of the Security Police and of the Security Main Office of the Reichsfuehrer SS, into the Chief of the Security Police and of the Security Main Office who regulates the service regulations and the obligations of the Security organizations who were incorporated into the SS."

Do your recall that section of the decree?

A Yes, I believe I do.

Q Now, I want to ask you two or three questions about your duties with respect to discipline. Do you remember any case where an individual employee was disciplined for refusing to accept a transfer?

A No, I know of no such case.

Q I imagine that if there had been such a case, in all probability it would have come to your attention since you were the one who was in charge of discipline?

A Definitely, yes. I want to point out again that as I stated before, there was no absolute pressure on men to join the SS, but it was always pointed out that it was a necessity, so far as duties were concerned.

Q Now, I am not talking about the SS. I am talking about the transfer to the Gestapo from some other political police force. You don't know of any case where an individual was punished for refusing to accept a transfer from some other political

H1000 - 0025

police forcex to the Gestapo, I take it?

A The fact that you ~~said~~ mentioned the political police/ ~~there~~ prompted me to explain that there was no reason for a person to refuse to enter into the Gestapo when he was already in the political police because at the time he was in the political police, when that was taken over by the Gestapo he automatically was in the Security Police.

Q I take it you don't know of a case when a person refused to transfer from the order police or from the criminal police to the Gestapo, and was punished for such refusal?

A No, these things did not happen because, as I have already stated before, a civil servant had to obey the orders of transfer.

Q And if he didn't obey the orders, why of course he would be punished, as you testified?

A Yes, he would have been disciplined and maybe even relieved of this service.

Q He might have even lost his job?

A Yes, he would have been removed from the civil service employ.

Q But you don't know of a single case where that happened?

A No, I cannot think of a single case and I would have known it.

LT. CMDR. HARRIS: I have no further questions.

BY COLONEL KAREV:

Q When you were in the administration, were you an administrative employee?

A At the time I was Commandder in 1934, I was a state attorney and as a state attorney, that is, as a higher civil service official, I was transferred and given this duty. The transfer of the position of Regierungsrat became effective one year later.

H1000 - 0026

personnel
Q As ~~personnel~~ referendum, were you an administrative official?

A Yes, higher official administrator.

Q You were an administrative official, that is, a personnel referendum in Prussia?

A Yes, when I was taken over or became Chief of the Personnel Section in 1936, I was Regierungsrat, and in that position was a member of the Prussian Interior and Regular Administration.

Q Could a person, who was an employee of the Gestapo, state that he did not approve of the work in the Gestapo since it had criminal goals and activities, and upon making a statement like that, leave the Gestapo, or was that practically impossible?

A As I stated before, there were no such cases in which employees wanted to leave the Gestapo because of its supposedly criminal character. The reason for that was that the duties and activities of the Gestapo were known to all and they had a basic legal backing.

Q Did you know of the executive activities of the Gestapo? Were you ever present during interrogations or during arrests?

A Yes, at times I made various official tours throughout Germany and saw and checked upon the administrative activities of the Gestapo. During those tours I could not see any indication that the groups of the Gestapo were in any way connected with the criminal activites.

CAPT. TUBRIDY: Does the witness know the functions of the Gestapo?

WITNESS: Yes.

Col. KAREU:
BY ~~LT. CMDR. HARRIS~~;

Q A number of witnesses have declared that a lot of people were being mistreated and tortured during interrogations. Did the witness, as one of the disciplinary

25

H1000 - 0027

chiefs, follow up any of these complaints and disciplinary actions concerning the treatment of prisoners?

A The personnel section, as pointed out time and time again, took disciplinary action right away whenever an official was accused of mistreating a prisoner. Officials who did this were disciplined or punished.

Q The High Tribunal either has to believe the testimony of the many witnesses who testified that they were mistreated by the Gestapo, or the Tribunal has to believe the statements of one of the Gestapo men who states that no such mistreatments actually took place and that very few were punished. Which is it?

DR. ORTH: I object to that question.

CAPT. TUBRIDY: ~~If you are going to object, please stand.~~ The witness may answer the question. ~~He has been extremely evasive up to now.~~

WITNESS: I can only say that the directors of the Gestapo always pointed out, time and time again, that any mistreatment of prisoners was considered bodily assault and any such bodily assault was to be punished severely.

BY ~~LT. CMDR. HARRIS~~ COLONEL KAREU:

Q I would like to know whether this decree forbidding people to leave the Gestapo only concerned the civil service employees or whether it also concerned the other employees?

A Here we have to differentiate the time before the beginning of the war and the time after the beginning of the war. Before the war the civil service employees only had the possibility to leave the civil service employ entirely, and they would have, in this case, to forget all their requests for later advantages, such as pensions. Anyway, I don't know of any such cases. However, the employees were able to leave the employ by giving notice to quit. The employment office had to agree to this, just like it had to agree when any employee left his job.

H1000-0028

After the war had started, it was impossible for all members of the Gestapo to leave the employ of the Gestapo.

COLONEL KAREV: I have no further questions.

BY LT. CMDR. HARRIS:

Q Do you mean it would be impossible to leave without permission of ones superior, as in your own case?

A Yes. Certain accusations were made against me because I left the Gestapo.

LT. CMDR. HARRIS: Thank you.

RE-DIRECT EXAMINATION

BY DR. ORTH:

Q I have one question. You answered before, witness, upon a question of the American prosecutor, as to whether any civil service employee was ever punished because he refused to be transferred to the Gestapo, in the negative. Did it happen at all that a civil service employee refused such an order and that disciplinary procedure was started?

A I d o not know of any such case and in my opinion, it did not happen.

Q How could you explain that?

A Because the employee thought that the Gestapo, like any other branch of the police, and any other branch of the interior and public administration, only had a lawful and fair goal.

DR. ORTH: Thank you.

BY DR. PELCKMANN:

Q Witness, upon the question of the American prosecutor, you stated before that if a person had refused to be transferred to the Gestapo, disciplinary action would have been taken and he would have lost his job. I ask you, is that correct?

A It is correct.

H1000 - 0029

the reason why a person refused to transfer to the Gestapo

Q Now I ask you, would ~~xxxxxx~~/influence the extent of the punishment or the action taken? I ask you to answer yes or no. Would it have made any difference if he would have explained for what reason he refused to be transferred?

A Yes.

Q You stated before that you don't know of any case where a man would have been punished or would have lost his job. But now, suppose the person would have refused because he stated the Gestapo was carrying out criminal activites. Would you say that all that would have been done to that person was to relieve him of his position? Don't you believe that ~~they~~ he would have been taken prisoner and put into the concentration camp, especially since you don't believe in that?

CAPT. TUBRIDY: Strike that question out. It is ~~the~~ a most leading question that I've heard. Just a minute, Dr. Pelckmann. I think the evidence indicates that he has no knowledge of any disciplinary action taken in any case, and he does not even know of an application of a transfer being made. Anything beyond that is purely speculation.

DR. PELCKMAN:: The speculation started with the question of the American Prosecutor as to what would have happened, a question which was admitted even though the witness said he did not know .

CAPT. TUBRIDY: And after that, you started to ask a leading question, in which you personally tell the witness what answer you want him to give, and if I may say so, this witness has indicated that he is only too willing to be led. The value of this type of testimony is very, very little.

DR. PELCKMAN: Then I would like also to request that the corresponding question and answer by the American Prosecution and witness, respectively, be struck also.

CAPT. TUBRIDY: You may ask the question, but you may not ask it in such a leading ~~xxxxx~~ fashion. You must please remember that this is a witness that has

H1000-0030

been called by the Defense Counsel. The American Prosecutor's position is that of cross examination.

Witness,

DR. PELCKMANN: I want to ask you, if this question is permitted by the Court, what would have happened to a person that would have refused appointment to the Gestapo, with the reason that he considered the Gestapo a criminal organization?

CAPT. TUBRIDY: First of all, you might say, did anything happen -- not what might have happened. You immediately tell the witness he is going to be punished.

DR. PELCKMANN: I only asked what would have happened to him.

CAPT. TUBRIDY: It indicates that something would have happened to him. You have told him that something would have happened to him.

DR. PELCKMANN: I will therefore ask whether something happened.

CAPT. TUBRIDY: Did anything happen to an individual, yes. It is very simple.

DR. PELCKMANN: Yes.

WITNESS: I stated already that a disciplinary measure would have started, and the person would have had to make concrete statements as to why he considered the Gestapo a criminal organization.

BY DR. PELCKMANN:

Q And according to your opinion, could he have made such a statement? Could he prove such a thing?

A That also is a personal question. In my opinion, no.

Q Thank you. The decree concerning the requirements for membership in the SS upon transfer from the Gestapo was brought to your attention. Do you remember the requirements for this transfer?

A They had to be eligible for SS use. That is, they first had to go through an SS medical examination and an SS racial examination.

H1000-0031

Q You also stated that some people could not meet these requirements, since they were either too old or too weak. Do you know of any other reasons which prevented the transfer into the SS?

A I could not testify to that because I was not responsible for this. The office that decided this was responsible for it.

Q Do you also know that one of the requirements was that the man had to be a member of the Party or one of its auxiliary organizations before 30 January 1933?

A No, I didn't know that.

Q Or that before the 30th of January, 1933, that he was an active member of the SS?

A That I don't know either.

LT. CMDR. HARRIS: Just a minute. How did you translate that. Was it active member of supporting member?

INTERPRETER: It doesn't matter, it's either active or supporting.

DR. PELCKMANN: Oh no, an active member is more than just a supporting member. It is supposed to be a supporting member, not an active member.

BY DR. PELCKMANN:

Q Or that he would have had to have had at least three years in the Security Police under the Reichsfuehrer SS and that he had to b e an able member of this organization?

A No, I don't know that either.

Q But now you know it, since I quoted it to you from this law. Therefore, would you say that according to a large number of personnel that was under your command, that all the persons under your command did meet these requirements with the exception of the few that were too old or too weak?

A I would suppose that.

DR. PELCKMANN: Thank you, I have no further questions.

30

H1000 - 0032

CAPT. TUBRIDY: I think we can adjourn now.

LT. CMDR. HARRIS: I would just like to ask two questions, sir.

BY LT. CMDR. HARRIS:

Q These policemen who were transferred to the Gestapo you say knew generally the purposes and functions of the Gestapo?

A Yes.

Q And they knew that the Gestapo administered the state concentration camps?

A No.

Q They didn't know about the decree of 12 February 1936 which provided that specifically?

A That was stated in that law, but it actually was different.

Q And they knew that the Gestapo took people into protective custody and sent them into concentration camps without trial, didn't they?

A Yes, due to the law concerning protective custody.

LT. CMDR. HARRIS: Thank you, that's all.

CAPT. TUBRIDY: We will adjourn.

(The Commission adjourned at 1310 hours.)

I certify that the following is a true and correct transcript of the testimony of HANS TESMER taken on 28 June 1946.

Alice Mahon
Reporter 1-16

Pilani A. Ahuna
Reporter 17-31

COMMISSIONER:

Joseph F Tubridy
Commissioner

Belongs in Mss. A. File folder

OFFICIAL TRANSCRIPT OF TESTIMONY FOR THE DEFENSE OF ORGANIZATIONS, TAKEN BEFORE A COMMISSION APPOINTED BY THE INTERNATIONAL MILITARY TRIBUNAL PURSUANT TO PARAGRAPH 4 OF THE ORDER OF THE TRIBUNAL DATED 13 MARCH 1946.

H1000 - 0033

28 June, 1946.

COMMISSIONER:

Captain Joseph Tubridy.

THE GESTAPO

(THE COMMISSION CONVENED AT 1000 HOURS.)

HANS TESMER, a witness, took the stand and testified as follows:

BY THE COMMISSIONER:

Will the witness stand, raise his right hand and repeat after me:

I swear by God, the Almighty and Omniscient, that I will speak the pure truth and will withhold and add nothing.

(The witness repeated the oath.)

Q What is your name?

A Hans Tesmer.

Q You may sit down.

CAPTAIN TUBRIDY: Dr. Merkel, will you please state what you want to prove by this witness?

DR. MERKEL: The witness will be questioned concerning the Gestapo. The activities of the various groups, principles governing appointment and release of Gestapo officials. The witness will be questioned by Dr. Orth.

CAPTAIN TUBRIDY: In this line of questioning, will the testimony bring out apoint which will have a bearing on the charges named in the indictment?

DR. MERKEL: Yes, definitely. I wish to prove whether or not the majority of the members of the Gestapo were volunteers or not. I also want to show whether or not the large masses of the Gestapo officers were recruited in what is now claimed to be criminal actions. The prosecution has already taken care of part of this, due to the fact that in the meeting of February 20th they withdrew part of the Gestapo from the indictment. I want to prove now that it was organizations and groups that already have been excluded were not to be held responsible for this so-called criminal action. This group, the complete administrative group, did not have anything to do with what is now termed by the prosecution as criminal action. These questions will be asked

H1000 - 0034

of this witness in that direction.

BY DR. ORTH:

Q Witness, when did you come to the Gestapo and what were your duties there?

A On March 15, 1934, I came to the Gestapo, however, even before 1933, I was an active state's attorney in Berlin.

Q What were your duties in the Gestapo?

A I was first concerned with law matters and later on with administrative matters. From March 1936 until I left the Gestapo in June of 1940 I had the position of personal referendary.

Q With the Gestapo in what Amt were you personal referendary?

A Before all the police in Germany were put into one organization, I was first with the chief of the Gestapo in the Prussian district. Later on I was with the main office of the Security Police, that is after the entire German police were put under the jurisdiction of the Berlin main office.

Q What were your duties as personal referendary?

A In my position with the ministry, I had to take care of the hiring and the advancement of all personnel of the Gestapo. In this connection, I also had to take care of the disciplinary action and had to see that it was carried out;

Q In other words, you can give us information concerning the personnel organization of the entire Gestapo until 1940?

A Yes.

Q What was the composition of the members of the Gestapo, the groups?

A The members of the Gestapo were composed of civil servants and non-civil servants, just aides.

Q Did all these civil servants have the same duties?

A No, in the civil servants in the Gestapo one has to make an essential difference. These servants were divided into two groups (1) the so-called administrative group and (2) the so-called group that carried out the actions and the group that did the field work. They had the same thing in the police too. You had first the administrative employees, then the employees that did the field work, that is the criminal police.

H1000 - 0035

Q What were the duties of the so-called Vollzugsbeamte?

A They were doing the outside field work, the arresting, the searching, securing the confessions etc.

Q What were the duties of the administrative employees?

A It was their duty, their administrative duty, to take care of such matters as pay, clothing, food etc.

Q Was there any essential difference between the administrative and executive members of the Gestapo?

A Yes, there was a difference by law.

Q What kind of a law?

A The essential difference, as in other organizations, was that the administrative employees were under the laws of the Reichs Civil Service law, while the executive employees were under the law of the police.

Q Was there also a difference in their duties and designations?

A Yes, there was a difference in their designations as well as in their careers.

Q Did it ever happen that an administrative employee of the Gestapo was used in an executive branch?

A Principally no.

Q Were there any exceptions?

A Yes, it did happen during special security measures. I remember the Olympics in Berlin in 1936 during which administrative employees of the Gestapo were used in these security measures, that is during the Olympics, however, no administrative employees were ever allowed to do any executive

H1000 - 0036

before, such as interrogations or getting information.

Q From what group were the civil servant men taken at the time the Gestapo was formed and developed?

A They had to make a difference between the executive and administrative employees. The members of the executive group were taken over when the Gestapo was formed at the beginning of 1933 especially from the political departments of the police. The administrative employees were taken over from the administrative groups of the Police Depart[illegible]. Since there were not enough police administrative officers in the police at the time to be sufficient for the Gestapo, men were also taken from local administration for this Gestapo administration work.

Q Were members of the party or other organizations, especially the SS, hired by the Gestapo.

A There was no special hiring of members of the party from organizations such as the SS since from the beginning it was realized that the new organization, the Gestapo, had to be put on a permanent basis and the basis for the entire Gestapo was the police officers taken over from the former police officers of the political police department. These men taken over from the Police Department, these former political policemen, were principally not members of the NSDAP or the SS since they had been taken over from the political department, which had functioned before 1933 and many of these men had voted against the Nazi party.

Q On what principle was the Gestapo enlarged or reinforced?

A The new men taken in the Gestapo were hired, according to the civil service laws and especially on their qualifications. By qualifications, I mean the men had to have the expert knowledge that was necessary, also their characteristics and personal actions were considered important in this case. It was not necessary at all that this person be a member of the party or the SS. I have already said that the men who were policement before 1933 were not party members either.

Q Out of what circle did your reinforcements for the Gestapo come?

A The placement of men for the Gestapo, especially for the executive group, came especially in the beginning from other police officers and groups mainly the criminal police. Secondly, also persons who were civil service

H1000 - 0037

applicants were hired for the executive positions. In the latter case, I am speaking of the young men who wanted to take over the occupation of an executive policemen. Among these applicants again there was a large part that were not members of the party or the SS. I want to especially point out that among these applicants for the executive positions in the Gestapo, there was not a large number of party members for the jobs in state railroads and state judicial organizations.

Q Did these civil service officials come to the Gestapo because they had volunteered for it?

A These civil servants as a rule did not come to the Gestapo due to the fact that they volunteered. No, they were sent on temporary duty to the Gestapo and this temporary duty later on was changed into an official transfer.

Q Who was commanded into the Gestapo and from where?

A As I stated already the executive branch of the Gestapo needed qualified criminal officers and they came from the criminal police and the administrative part of the Gestapo was continually needing expert and qualified personnel and these came from the administrative groups of the police and local administrations. During the first years, there was some difficulties since the Criminal police did not want to send their best men away.

Q Was there a possibility for a civil servant to protest against his being transferred to the Gestapo?

A For the individual employee, there was no possibility of protesting against this transfer. According to the German Civil Service law, every civil servant was supposed to follow any orders concerning commandeering or concerning transfers, however, he did have the possibility of expressing his wishes which did not have to be carried out in the interest of the job, since it was always the desire when the Gestapo was founded and later on to build up the personnel staff. These wishes of the civil servant employees were not respected or regarded.

Q What would have happened if a civil servant employee had refused to be transferred or refused to be sent on temporary duty to the Gestapo?

A The employee who would have refused to follow the order of being commanded or transferred would have brought about disciplinary action against him.

Q What you just said now concerning the volunteers into the Gestapo was not true when the Gestapo was founded as well as later on when additional men came in?

H1000 - 0038

A Yes, the statements I made concerning the voluntary character of the Gestapo was true at the beginning when the Gestapo was organized and later on when they received their replacements.

Q During the time you were there, were any employees released from the service and why?

A I would like to find out wh[illegible] you mean by released. Do you mean released from their civil servant status or just released by the Gestapo and sent back to their organization?

Q I am interested in both.

A The only time any releases were made from the Gestapo at the time I was there was due to disciplinary action. Insofar as transferring back to their old organizations was concerned, I stated already that was turned down as a rule. Only in very limited cases, men that were not usable were sent back to their old organizations.

Q Was it possible that an employee left the Gestapo of his own free will?

A The members of the Gestapo had the same possibility as the civil servant employees in every other branch of the local state administration service, that is the right to leave voluntarily the field of service, however, when the civil servant did retire or did leave the civil service, he had to leave behind all the advantages that [illegible] otherwise open to him. I don't know of any such cases. That was the position until the beginning of the war and then it was not possible any more to leave the employment of the civil service according to the law.

Q What were the duties of the employees of the Gestapo?

A The employees of the Gestapo were required to do secondary or aid work. They were used in the administration of the Gestapo as technicians, teletypists, etc.

Q Were any such employees used in the executive service?

A These employees were not used in the executive service. They could not carry out any independant executive measures. They did not have the characteristics or duties that were open to the employees of the state attorney's office and insofar as they were used in the executive group, they could only do more or less aid or clerical work.

Q What were the basic principles, on which these employees were hired?

H1000 - 0039

A The so-called tarriff grouping was used in the employment of these men.

Q Did members of the party, especially the members of the SS, receive any special advantages when applying for these positions.

A When these employees were hired by the Civil service a large number of party members requested these jobs. In hiring these employees when the same qualifications were at hand of German men, then the men that were in the party of the SS did receive the position and they received the advantage, however, it was found out later on, especially that the old party members were not satisfied with their positions since they saw better chances of advancement in outside industry and they attempted to leave the Gestapo again.

Q Can you give us the relationship between the number of civil service employees and the number of emppoyees of the Gestapo.

A Yes, I can give you these figures. In the beginning, there were about 70% civil service employees and 30% other employees. As time went by the number of civil service employees became smaller and the percentage of other employees was increased. When war came the rate was fifty to fifty.

Q Can you give us any statement concerning the number of people in the Gestapo?

A Yes, I am in a position to make this statement. I want to say between 1933 and March, 1936 I did not have anything to do with the personnel work in the Gestapo, however, I was informed concerning this by the person who had my job before I did. I can give you the number of these civil service employees according to the budget, which we were allowed every year and from which I can figure out how many men we had. I started out with 1933 and according to the statement of the Gestapo main office there were about 40 administrative officers, 200 executive officers and 70 employees.

Q I think we can skip the next years. I would like to know what the figure was in the last year?

A In the year 1940 the Gestapo had 20,000 employees, of which 1,700 were administrative personnel, 11,000 executive personnel and 8,000 employees.

Q Among these 8,000 were the so-called labor personnel required to work?

A No, there was no such labor recruits among these 8,000 people. When we

H1000 - 0040

did get these labor recruits, they were not hired as labor employees, but later they received their appointment indirectly from us, which we received from the Reichs Finance Minister.

Q Was it possible that these employees could leave the Gestapo voluntarily?

A Yes, these employees did have the possibility to voluntarily leave the Gestapo. These employees of the Gestapo, as well as were the employees of all state and government offices were considered to be privately hired personnel. They had a certain period in which to inform their employer that they were leaving and they could leave the service in that way.

Q Was that also true during the war?

A No, I don't believe that the employees could leave during the war since all the employees of Government and State bureaux were considered as essential.

CAPTAIN TUBRIDY: Please instruct the witness not to testify as to what he believes, only what he knows.

BY DR. ORTH:

Q Do you know if the employees could leave the Gestapo voluntarily during the war?

A Yes, I stated before the war they could do it without any trouble, however, after the war started they could not do it any more since at that time they were considered essential and at that time it was also necessary to receive the approval of the employment office for leaving the job and the employment office did not give such permission anymore.

CAPTAIN TUBRIDY: What the witness said now doesn't appear to be consistent with what he said before.

BY DR. ORTH:

Q The prosecution accuses the Gestapo of being a criminal organization. Do you know of a single case that an employee asked to be released from the Gestapo since he did not agree with these so-called criminal actions?

A No, I do not know of a single case during my years that I was employed of a man who wanted to leave the Gestapo because of its criminal goals and actions.

Q You also were in charge of hiring new members. Do you know or can you tell us when these men were hired whether they were asked if they were

H1000 - 0041

capable of carrying out any such criminal actions as the Gestapo is accused of?

A No, such an examination could not have occurred since we took as a basis for these examinations the law and the official nature of the Gestapo. The Gestapo was created through regular law during the years 1933, 1934 and 1936. It s goals and duties were also put down in the law. My main job as personal referendary was to hire decent and clean employees.

Q Did you also have as personal referendary the supervision of the duties of these employees?

A I had the supervision of these employees insofar as the personal work was concerned. The supervision in the various special branches were carried out by the section chiefs.

Q Were the disciplinary matters also taken care of in your section.

A Yes, the disciplinary matters were taken care of at the beginning in my section. Later on this work was put into a special independent committee's hands, however, the chief of the disciplinary section was required to discuss the cases with me. I had the power of decision in this matter.

Q In other words you can give me information as to what the disciplinary measures were for any over-stepping of the law by the executive officers?

A Yes, I can give you the information. Whenever an executive officer acted against the disciplinary or other laws, then we immediately stepped into the case energetically.

CAPTAIN TUBRIDY: What is the point of this questioning?

DR. ORTH: The witness worked on these disciplinary matters.

CAPTAIN TUBRIDY: What is the point? Do you mean disciplinary action of the office or disciplinary action concerning something that happened in the field?

DR. ORTH: Against the executive officers. That is those that took care of arrests, etc.

CAPTAIN TUBRIDY: Very well.

BY DR. ORTH:

Q Can you give me a few examples in which executive personnel was disciplined or punished for any kind of criminal actions they carried out?

H1000 - 0042

A Yes, I can give a few of these examples. For instance in 1937 two members of the Criminal Ssction, the criminal secretary Gunnerman and pne of his chief assistants.

Q We are not interested in names.

A These two men were sentenced in Dusseldorf because of the mistreatment of the prisoners. They spent one and one half years in the penitentiary.

Q That is sufficient. Were these cases as they became known at official headquarters always investigated and punished?

A Cases like this, yes, if they became known to official circles were always investigated and the people punished.

Q Did you as personal referendary also work on the connection of the Gestapo with the SS, that is the SD?

A At the end of 1936 or in the beginning of 1937, I received a call to get ready for some changes within the Gestapo to make it smaller than the SD.

Q From whom did you receive this order?

A I received this order from my main section chief Hauptabteilungsleiter of the Gestapo, at that time Heydrich.

Q What was the reason for this equalization of rank?

A The main reason for this was the attempt to make uniform the entire security police.

Q Did this equalization of rank designations mean the Gestapo became a part of the SS?

A The equalization of rank designations only meant a formal induction of the members of the Gestapo into the SS. To what extent this formal induction was is best shown by the fact that with this new incorporation in the SS there was no necessity of SS service. The only basic matter was that from now on the members of the Gestapo were allowed to wear the uniform of the SS.

~~In~~ The SD

H1000 - 0043

Q. Could an employee, who recieved the rank in the SS through this rank equalization, could he refuse such rank?

A. There was supposed to be no immediate pressure concerning this transfer into the SS, however, it was stated in the higher circles that the larger part of the Gestapo members themselves requested the transfer into the SS.

Q. While you were still working, were there any labor recruits sent to the Gestapo?

A. Yes, such labor recruits were already used during my time.

Q. How did they come about?

A. The Gestapo recieved such labor recruits due to the fact that at the beginning of the war, many officers of the Gestapo were transferred out into new organizations and sections. In order to fill these places, not only labor recruits were used, but also already retired civil servant employees.

Q. On what kind of directives were these labor recruits hired?

A. These emergency labor recruits were put into the Gestapo due to the fact that it was an absolute necessity. This was an emergency measure, and it included all possible occupations.

Q. Was it checked when these people were hired whether they were a member of the party or one of its organizations?

A. We did not look at all upon whether they belonged to the party or any organizations when these political recruits were received.

Q. Could someone protest against being put into the Gestapo, that is one of the labor recruits?

A. One of these labor recruits could not protest with any appreciable results against their transfer of work to the Gestapo. He could protest against this if he had been called by the Post Office Department, or by the state railroad.

CAPTAIN TUBRIDY: We will have a recess for ten minutes.

(The Commission Recessed at 1130 hours).

H1000 - 0044

Q. Did those labor recruits come to the Gestapo voluntarily, or because they had been ordered?

A. Those labor recruits did not come to the Gestapo because they volunteered, but because of laws or directives.

Q. When and why did you leave the Gestapo employ as a personnel expert?

A. I left the Security Police at the end of June 1940 due to the fact that I had volunteered for the Army.

Q. Could you leave the Security Police voluntarily?

A. No, officially I could not leave the Security Police because at that time already the order had been handed out that it was forbidden to volunteer for the Army. I went to my section chief and asked him to release me for the Army. I received permission from him.

Q. What was the reason for this? Were there any differences or special difficulties, and why did you leave?

A. I had certain difficulties in my personnel work. In the beginning of the first half of 1940, I was surprised by the chief of the personnel division of the Security Police when he told me that there was a new position open within the Security Police, and that was a position as one of the chief administrative officials. At any rate, it was an executive position. In this development of a new position, I saw difficulties during the war which I could not master. In addition to that, men who did not belong to the personnel commission were given the job to prepare this new position. With that, it was important for me to influence this new position and to give it some of my own ideas. Altogether, I want to state that, as chief of the personnel section, I still was in charge of all personnel. However, through the development of this new position, I did not have the power any more to influence this particular group of persons.

Q. I have one last question. In the German transcript page 5193, it states that, and I quote: "....I, of the United States, and I believe all my fellow colleagues, are ready to

H1000 - 0045

except all purely office jobs of the Gestapo. Among that, I mean the typists, the house administrators, the janitors and so on".

Could you make a statement as to whether any of the groups that you mentioned to me would have the background of being just office workers as mentioned in this description, such as typists and janitors?

A. Among this group belonged, in my opinion, all non-civil service assistant employees. Under these non-civil service employees and assistants I understand all employees that did not have a civil service job. That is, including these labor recruits.

DR. ORTH: No further questions.

CROSS-EXAMINATION

BY LT. CMDR. HARRIS:

Q. Do you know Dr. Best?

A. Yes, I do know Dr. Best.

Q. What position did Dr. Best have in the Gestapo when you joined the Gestapo in 1934?

A. When I came to the Gestapo in the middle of March 1934, Dr. Best was not there yet. If I remember correctly, Dr. Best only came in the end of 1934.

Q. What position did Dr. Best have thereafter in the Gestapo with respect to you?

A. Dr. Best was my Hauptabteilungsleiter. He was my main section chief in the office of the Security Administration and Law.

Q. And I suppose you derived much of your knowledge of the legal status of the Gestapo and its relations to the SS from Dr. Best?

A. I did not received much information from him, but all this information was related to me through the official law.

Q. I would like to call to your attention what your chief, Dr. Best, had to say in his book, "Die Deutsche Polizei" [illegible]

H1000 - 0046

concerning the earlier relationship of the Gestapo and the SS. This is from chapter 7 of his book, the chapter entitled "Police and SS":

"After the National Socialist regime, during which time the SS took a large part in carrying out the measures necessary for the seizing of power by the NSDAP, the SS, at least indirectly, became responsible for new duties. On 2 April 1933, the Reichsfuehrer SS was appointed political police commander for Bavaria. Corresponding appointments were made in the following months in all the remaining German provinces. On 20 April 1934, I was appointed Deputy Chief of the Secret State Police, preceded by the Prussian Minister President Goering who further designated himself chief of the Secret State Police.

"In order to build up an independent and powerful police force, the like of which had not hitherto existed in Germany regular officials of the former police force on the one hand, and members of the SS on the other hands were brought in with the uncompromising fighting spirit of the SS.

"The new organizations took up the struggle against enemies of the people, and the state, for the safe-guarding of the National Socialist Leadership and order. The members of the political police who were, for the time being, still the political police of the individual German provinces, were included into the SS in increasing numbers so that, in time, for the first time, mutual amalgamations of the SS and police was accomplished".

#1

Do you agree with this statement of your chief, Dr. Best?

A. I did not know of this book of Dr. Best. I only heard that he had published such a book. The description of the police is correct, in that extent where he expresses the connection between the Reichsfuehrer SS and the Police. The Reichsfuehrer SS, at that time, was made deputy commander of the Gestapo, of the Secret State Police in Prussia, and also was made chief of the political police in other provinces of the Reich.

H1000 - 0047

Q. Just a minute. I don't want you to repeat this history of which we have a great deal of evidence in the record. My question is simply whether you agree basically with what your chief, Dr. Best, says in this chapter?

A. I don't agree with Dr. Best. Where he stated that the Gestapo, and later on also the Security Police became a part, or was to become a part, of the SS, I think he should have pointed out especially, in this book, that the Gestapo, and later on the Security Police needed experts and that as time went by, they used more and more such qualified men. During my four and a half years as personnel expert in the Gestapo, I always attempted, with the approval of Dr. Best, to further these groups of men -- these experts -- within the Gestapo, and to make sure that such a group of qualified men be maintained. However, I did have some difficulties since they were set, themselves, against the professional civil service employee.

Q. I think you have answered the question. Now I want to call to your attention another statement of Dr. Best, In this chapter, where he is considering the relationship between the SS and Police, and perhaps this will service to clarify the previous statement, he says:

"Thus the SS and the Police formed one unit, both in their structure and in their activity, although their individual organizations have not lost their true individuality and their position in the larger party and state administration, with which they are concerned from other points of view."

That's correct, isn't it?

H1000 - 0048

A Yes, as I have already explained before, the main reason for equalization of rank dissemination was in order to create a uniform security police. However, when this new rank declaration was established, this was no in any way connected with active SS service, and therefore, the entire transfe to the SS was only a formal one.

Q And wasn't the aim of this law to fuse members of the German police and of the SS into a uniform state protective corps of the Reich?

A This question is very hard for me to answer. As far as I personal am concerned, my opinion was that the reason was not so much to have a uniform security service, but one of the main reasons in my opinion was that the Gestapo officials were able to wear the SS uniform.

Q Now, I thought you were testifying as to what this directive or decree provided, or am I mistaken? Was there a decree?

A There was a decree, yes.

Q Have you been describing what this decree provided?

A Yes.

Q Under this decree, was a member of the security police required t file a written application to join the SD or SS?

A Yes, it was the wish of the leadership of the Security Police that as large as possible a number of the Security Police officials should make such a request. The carrying out of this decree was considered to take a long time --that is, several years. The applications from the Security Police were tested or examined concerning whether or not they met the SS requirements. Included in this investigation, as to whether or not a person was acceptable to the SS, was the SS physical examination and the SS racial examination.

Q In other words, you did not get into the SS except by making an application and meeting their requirements, did you?

A I have already mentioned that it was the wish of the main office of the Security service that as large a number as possible came to the SS or joined the SS. They acted accordingly. That is, for instance, the members of my office were one day ordered to appear for the medical and racial examination.

Q You didn't answer the question, did you? You couldn't get into

H1000 - 0049

the SS unless you made a formal request and succeeded in meeting their requirements?

A Yes.

Q Now, as I understand, from your testimony, the same thing is true with respect to the Gestapo. You couldn't get into the Gestapo unless you established that you were qualified to meet the requirements of the Gestapo?

A Yes, and I say that when this Gestapo was ended through the SS, then you had to meet the SS requirements too. There were cases in which these requirements were not met by certain persons. For instance, when a person was of old age or especially weak, physically.

Q And with respect to the Gestapo, particularly if he did not have the physical requirements?

A Yes.

Q Now, just to refresh your recollection, I want to call your attention to this decree that, I believe, you have been testifying to. This is the decree on the acceptance of members of the Security Police into the SS, dated 23 June 1938. The decree states, and I quote:

"With the aim of using members of the German Police with the Schutz-staffel of the National Socialist German Workers Party into one uniformly turned out State Protective Corps of the National Socialist Rise, I decree as follows:

Then follows the various conditions under which members of the Security Police will be accepted into the SS. Do you recall that provision of the decree at this time?

A Yes, I can remember. I also, at that time, thought that the view of the SS and the Police was that the Security Police was also to wear the uniform of the SS.

Q Now, I want to invite your attention to another provision of that decree, under Section III.

"Members of the Security Police incorporated into the SS will be assigned to the units of the Security Service of the Reichsfuehrer SS, according to more detailed instructions of the Chief of the Security Police and of the Security Main Office of the Reichsfuehrer SS, into the Chief of the Security Police and of the Security Main Office who regulates the service

H1000 - 0050

regulations and the obligations of the Security organizations who were incorporated into the SS."

Do you recall that section of the decree?

A Yes, I believe I do.

Q Now, I want to ask you two or three questions about your duties with respect to discipline. Do you remember any case where an individual employee was disciplined for refusing to accept a transfer?

A No, I know of no such case.

Q I imagine that if there had been such a case, in all probability it would have come to your attention since you were the one who was in charge of discipline?

A Definitely, yes. I want to point out again that as I stated before, there was no absolute pressure on men to join the SS, but it was always pointed out that it was a necessity, so far as duties were concerned.

Q Now, I am not talking about the SS. I am talking about the transfer to the Gestapo from some other political police force. You don't know of any case where an individual was punished for refusing to accept a transfer from some other political police force to the Gestapo, I take it?

A The fact that you mentioned the political police prompted me to explain that there was no reason for a person to refuse to enter into the Gestapo when he was already in the political police because at the time he was in the political police, when that was taken over by the Gestapo he automatically was in the Security Police.

Q I take it you don't know of a case when a person refused to transfer from the order police or from the criminal police to the Gestapo, and was punished for such refusal?

A No, these things did not happen because, as I have already stated before, a civil servant had to obey the orders of transfer.

Q And if he didn't obey the orders, why of course he would be punished, as you testified?

A Yes, he would have been disciplined and maybe even relieved of this service.

Q He might have even lost his job?

A Yes, he would have been removed from the civil service employ.

Q But you don't know of a single case where that happened?

A No, I cannot think of a single case and I would have known it.

LT. CMDR. HARRIS: I have no further questions.

BY COLONEL KAREV:

Q When you were in the administration, were you an administrative employee?

A At the time I was Commander in 1934, I was a state attorney and as a state attorney, that is, as a higher civil service official, I was transferre and given this duty. The transfer of the position of Regierungsrat became effective one year later.



H1000-0051

H1000-0052

Q As personnel referendum, were you an administrative official?

A Yes, higher official administrator.

Q You were an administrative official, that is, a personnel referendum in Prussia?

A Yes, when I was taken over or became Chief of the Personnel Section in 1936, I was Regierungsrat, and in that position was a member of the Prussian interior and Regular Administration.

Q Could a person, who was an employee of the Gestapo, state that he did not approve of the work in the Gestapo since it had criminal goals and activities, and upon making a statement like that, leave the Gestapo, or was that practically impossible?

A As I stated before, there were no such cases in which employees wanted to leave the Gestapo because of its supposedly criminal character. The reason for that was that the duties and activities of the Gestapo were known to all and they had a basic legal backing.

Q Did you know of the executive activities of the Gestapo? Were you ever present during interrogations or during arrests?

A Yes, at times I made various official tours throughout Germany and saw and checked upon the administrative activities of the Gestapo. During those tours I could not see any indication that the groups of the Gestapo were in any way connected with the criminal activities.

CAP. TUBRIDY: Does the witness know the functions of the Gestapo?

WITNESS: Yes.

BY COL. KAREU:

Q A number of witnesses have declared that a lot of people were being mistreated and tortured during interrogations. Did the witness, as one of the disciplinary chiefs, follow up any of these complaints and disciplinary actions concerning the treatment of prisoners?

A The personnel section, as pointed out time and time again, took disciplinary action right away whenever an official was accused of mistreating a prisoner. Officials who did this were disciplined or punished.

Q The High Tribunal either has to believe the testimony of the many witnesses who testified that they were mistreated by the Gestapo, or the Tribunal has to believe the statements of one of the Gestapo men who states that no such mistreatments actually took place and that very few were punished. Which is it?

H1000-0053

DR. ORTH: I object to that question.

CAPT. TUBRIDY: The witness may answer the question.

WITNESS: I can only say that the directors of the Gestapo always pointed out, time and time again, that any mistreatment of prisoners was considered bodily assault and any such bodily assault was to be punished severely.

BY COLONEL KAREU:

Q I would like to know whether this decree forbidding people to leave th Gestapo only concerned the civil service employees or whether it also concerne the other employees?

A Here we have to differentiate the time before the beginning of the war and the time after the beginning of the war. Before the war the civil service employees only had the possibility to leave the civil service employ entirely, and they would have, in this case, to forget all their requests for later advantages, such as pensions. Anyway, I don't know of any such cases. However, the employees were able to leave the employ by giving notice to quit. The employment office had to agree to this, just like it had to agree when any employee left his job.

After the war had started, it was impossible for all members of the Gestapo to leave the employ of the Gestapo.

COLONEL KAREV: I have no further questions.

BY LT CMDR HARRIS:

Q Do you mean it would be impossible to leave without permission of ones superior, as in your own case?

A Yes. Certain accusations were made against me because I left the Gestapo.

LT. CMDR. HARRIS: Thank you.

RE-DIRECT EXAMINATION

BY DR. ORTH:

Q I have one question. You answered before, witness, upon a question of the American prosecutor, as to whether any civil service employee was ever punished because he refused to be transferred to the Gestapo, in the negative. Did it happen at all that a civil service employee refused such an order and that disciplinary procedure was started?

A I do not know of any such case an in my opinion, it did not happen.

Q How could you explain that?

A Because the employee thought that the Gestapo, like any other branch of the police, and any other branch of the interior and public administration, only had a lawful and fair goal.

DR. ORTH: Thank you.

BY DR. PELCKMANN:

Q Witness, upon the question of the American Prosecutor, you stated before that if a person had refused to be transferred to the Gestapo, disciplinary action would have been taken and he would have lost his job. I ask you, is that correct?

A It is correct.

Q Now I ask you, would the reason why a person refused to tranfer to the Gestapo influence the extent of the punishment or the action taken? I ask you to answer yes or no. Would it have made any difference if he would have explained for what reason he refused to be transferred?

A Yes.

Q You stated before that you don't know of any case where a man would have been punished or would have lost his job. But now, suppose the person would have refused because he stated the Gestapo was carrying out criminal activities. Would you say that all that would have been done to that person was to relieve him of his position? Don't you believe that he would have been taken prisoner and put into the concentration camp, especially since you don't believe in that?



H1000-0054

DR. PELCKMANN: I will therefore ask whether something happened.

WITNESS: I stated already that a disciplinary measure would have started, and the person would have had to make concrete statements as to why he considered the Gestapo a criminal organization.

BY DR. PELCKMANN:

Q. And according to your opinion, could he have made such a statement? Could he prove such a thing?

A. That also is a personal question. In my opinion, no.

Q. Thank you. The decree concerning the requirements for membership in the SS upon transfer from the Gestapo was brought to your attention. Do you remember the requirements for this transfer?

A. They had to be eligible for SS use. That is, they first had to go through an SS medical examination and an SS racial examination.

Q. You also statedtthat some people could not meet those requirements, since they were either too old or too weak. Do you know of any other reasons which prevented the transfer into the SS?

A. I could not testify to that, because I was not responsible for this. The office that decided this was responsible for it.

Q. Do you also know that one of the requirements was that the man had to be a member of the Party or one of its auxiliary organizations before 30 January 1933?

A. No, I didn't know that.

Q. On that before the 30th of January 1933, that hewas an active member of the SS?

A. That I don't know either.



H1000-0055

LT. CMDR. HARRIS: Just a minute, How did you translate that? Was it active member or supporting member?

INTERPRETER: It doesn't matter, it's either active or supporting.

DR. PELCKMANN: Oh no, an active member is more than just a supporting member. It is supposed to be a supporting member, not an active member.

BY DR. PELCKMANN:

Q. Or that he would have had to have had at least three years in the Security Police under the Reichsfuehrer SS and that he had to be an able member of this organization?

A. No, I don't know that either.

Q. But now you know it, since I quoted it to you from this law. Therefore, would you say that according to a large number of personnel that was under your command, that all the persons under your command did meet these requirements with the exception of the few that were too old or too weak?

A. I would suppose that.

DR. PELCKMANN: Thank you, I have no further questions.

CAPT. TUBRIDY: I think we can adjourn now.

LT. CMDR. HARRIS: I would just like to ask two questions, sir.

BY LT. CMDR. HARRIS:

Q. These policemen who were transferred to the Gestapo you say knew generally the purposes and functions of the Gestapo?

A. Yes.

Q. And they knew that the Gestapo administered the state concentration camps?

A. No.

Q. They didn't know about the decree of 12 February 1936, which provided that specifically?

A. That was s tated in that law, but it actually was different.

Q. And they know that the Gestapo took people into protective custody and sent them into concentration camps without



H1000-0056

H1000-0057

trial, didn't they?

A. Yes, due to the law concerning protective custody.

LT. CMDR. HARRIS: That you, that's all.

CAPT. TUBRIDY: We will adjourn.

(The Commission adjourned at 1310 hours).

I certify that the following is a true and correct transcript of the testimony of HANS TESMER taken on 28 June 1946.

ALICE KEELIN
Reporter (pp 1 - 16)

PIILANI AHUNA
Reporter (pp 17-31)

COMMISSIONER:
JOSEPH F. TUBRIDY
Commissioner.